

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GOSMILE, INC., a Delaware Corporation,

Plaintiff,

-against-

DR. JONATHAN B. LEVINE, D.M.D. P.C., a
New York corporation, and DR. JONATHAN B.
LEVINE, an individual,

Defendants.

Index No. 10 CV 8663 (PKC)(DCF)

DECLARATION OF
KYLE C. BISCEGLIE

KYLE C. BISCEGLIE, declares under the penalties of perjury, pursuant to 28 U.S.C. § 1746 that:

1. I am a member of Olshan Grundman Frome Rosenzweig & Wolosky, LLP, attorneys for defendants Dr. Jonathan B. Levine, D.M.D. P.C. and Dr. Jonathan B. Levine (“Dr. Levine”) (“Defendants”). I submit this declaration in opposition to Plaintiff GoSMILE, Inc.’s (“GoSMILE”) motion for a preliminary injunction.

2. Annexed as Exhibit A is a copy of Dr. Levine’s privilege log in the State Court Action. The February 24, 2008 email that appears as an exhibit to the Sloane Dec. (Docket No. 29-8, Ex. 17) appears on page 94 of the attached privilege log as document number 2373.

3. Annexed as Exhibit B is a copy of GoSMILE’s December 23, 2010 press release regarding this action.

Dated: January 4, 2011

s/ Kyle C. Bisceglie
KYLE C. BISCEGLIE